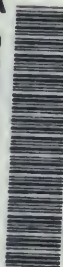


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En termes de la Ley
and other verses by

William R. Anson.

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BALLADS

EN TERMES DE LA LEY

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(ORIGINALLY WRITTEN FOR THE EXCLUSIVE USE
OF THE TRINITY LAWYERS)

AND OTHER VERSES

BY

THE RIGHT HONOURABLE

SIR WILLIAM REYNELL ANSON

BART., D.C.L., F.B.A.

WARDEN OF ALL SOULS COLLEGE, OXFORD
1881 TO 1914

BURGESS FOR THE UNIVERSITY
1899 TO 1914

AUTHOR OF 'PRINCIPLES OF THE ENGLISH LAW OF CONTRACT,'
'LAW AND CUSTOM OF THE CONSTITUTION,' ETC., ETC.

Born 14 November, 1843

Died 4 June, 1914

OXFORD

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HORACE HART M.A.



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Pusey House, Faringdon, Berks.

Dear *W. Buckle*.

By desire of the beloved writer of these verses, a "recollection" of himself was to be given by us,—his sisters,—to many of his College, and older, friends. We hope this little volume may be a happy reminder of his sparkling humour, and his kindly helpfulness ; and if it should prove to be an acceptable recollection to you, it will,—we are sure,—be one in the giving of which he would concur.

Yours sincerely,

ELIZABETH G. ANSON.

FLORENCE H. ANSON.

December 1914.

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PREFATORY NOTE

It is hoped that the few stray leaves of fugitive verse by Sir William Anson, here gathered together; may serve to recall and bring back to the memory of those who knew and loved him well, something of the habitual brightness and charm of his companionship, something of the perennial light and laughter that used to play through his daily life,—even through his serious work,—as many generations of former Trinity Law-pupils can gratefully testify.

Happy sayings in ordinary conversation are naturally ephemeral. They die on the moment, or are only half-remembered, to be spoiled later on in the re-telling; but happy thoughts, of themselves breaking into humorous poetry, may chance to endure and come close to their own immortality, upborne by an immanent spirit of pure gaiety and merriment, or by some characteristic grace of intrinsic levity and truth.

R. W. RAPER.

December 1914.

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BALLADS

EN TERMES DE LA LEY

[ORIGINALLY WRITTEN FOR THE EXCLUSIVE USE OF THE
TRINITY LAWYERS]

If the lawyer, as is prudent;
Would be something of a student :
If, despite the scorn of fools,
He would profit by his Schools :
Let him not, like nine in ten,
Read the notes of other men.
Let him go, where Learning lies;
To the best authorities,
And, though oft by labours vext;
Read his Cases, read his Text.
What though classes, as they must;
Fall to the unjust and the just ?
Let Fate do the worst it can,
He will be a worthier man.
Life, so far as we can see,
Does not end with the Degree.

- I. The Ballad of Negotiable Instruments.
- II. The Ballad of General Offers.
- III. The Ballad of an Honest Belief.
- IV. The Ballad of Collateral Transactions.
- V. The Ballad of Discharge by Breach.
- VI. The Ballad of Sovereigns.
- VII. The Ballad of Subsequent Impossibility.
- VIII. The Ballad of the Infant's Promise to Marry.
- IX. The Ballad of the Trinity Lawyer.

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I
THE BALLAD OF NEGOTIABLE
INSTRUMENTS

The air of this ballad is 'Killaloo'.

The singer is Mr. Bathurst, the *bonâ fide* holder for value.

The first verse shows how the note was made :

And the second verse shows how the note was indorsed, and to whom :

*And the third verse shows how action was brought upon the note,
and where the burden of proof lay in respect of the matters to
be proved :*

And the chorus shows the habits and the learning of Trinity men.

i.

ELLIS made a bet with Havers—
He maintains, and never wavers,
That the boat was bound to bump that Monday ; but
Though the crew was very fast ;
Yet it wasn't made to last,
And it tired, and was beaten at the Gut.
Says Ellis, ' Hang the boat ;
Here 's a promissory note ¹ ;
In a month I'll raise the tenner—with ease.

¹ Note, reader, that the wager is void by 8 and 9 Vict. c. 109, s. 18, but the promissory note is not only void, as between Messrs. Ellis and Havers (being given in satisfaction of a void contract, and so upon no consideration) ; it is given upon an unlawful consideration under 5 & 6 Will. IV, c. 41, for the wager is of the sort at which the old gaming Acts were directed. This will affect subsequent holders in a way which will presently appear.

You'll accept in satisfaction ¹
 This convenient *chose in action*,
 You'll indorse it, and discount it as you please.'

For it's manners very sociable, and conduct irre-
 proachable, and instruments negotiable,

We learn in Trinitee.

There's a marvellous attraction
 About a *chose in action* ²:

It's quite of course that you indorse—
 And—hang the indorsee.

2.

Money comes and money goes,
 As Havers shortly knows,

When he's betted on his bulldog's pedigree :

For one must lose and one win ³,

So the note's indorsed to Unwin,

Who for seven pounds ten indorses it to me.

¹ Note that there is a difference between the taking of a note in satisfaction and discharge of a liability, or as a payment conditional on the note being honoured.

² The words do no doubt bring a flood of agreeable recollections to the reader's mind, e.g. the difference between *chose in action* and *chose in possession*; the rules of common law, equity and statute, as to the assignment of a *chose in action*; and the difference between what is assignable and what is negotiable.

³ Observe, reader, that in a wager there must be mutual chances of gain and loss. If *A* bets his jockey £100 to nothing against his horse, this is an offer of reward to the jockey to use his best efforts to win. If *A* bets *X* £100 to nothing that Oxford wins the Boat Race in 1897, this is a promise, made without con-

II

And Commem. is drawing near,
And all sorts of things are dear :

You must pay me, though you sell your hat and
coat ;

For though you know, dear Bobby¹,
That I surely wouldn't rob ye,
I'm an indorsee for value of your note.

For it's manners very sociable, and learning unap-
proachable, on instruments negotiable,

We get in Trinitee.

The holder says with pride, he
Is a holder *bonâ fide* :

Your money's lost, your note's indorsed—
And—bless the indorsee.

3.

If the case is to be fought—
Though it really didn't ought :
Such litigiousness is far from being nice—

sideration, to pay money on the determination of an uncertain event—*Seemle* it might be good if under seal.

Observe, too, that the bet upon the bulldog's pedigree is merely void under 8 & 9 Vict. c. 109, but until the note reaches Mr. Bathurst no consideration has been given for it that the law would recognise.

¹ It is presumed that under this name Mr. Ellis is referred to, and that he was so called as being the representative of law and order in a lawless and disorderly generation. They err who regard the narrative as describing an incident in the career of the learned Professor of Latin.

You'll call upon me, shall you,
 To show I've given value¹?
 You can do it, and I'll prove it in a trice;
 And I'm much too old a stager
 To know aught about the wager,
 So it doesn't count where parties are remote².
 Show a jury that I knew it—
 I'll be hanged if you can do it!
 I'm a *bonâ fide* holder of your note³.

For it's manners very sociable, and conduct irre-
 proachable, and instruments negotiable,
 That we learn in Trinitee.
 Nothing grander, nothing bolder,
 Than the *bonâ fide* holder:
 Thus bets are lost and notes indorsed—
 And—three cheers for the indorsee.

¹ Mr. Ellis sets up the unlawful consideration for which the note was originally made. The holder must then show that he gave consideration for it, and this, the reader will see, he can readily do.

² *Immediate* parties to a bill or note are parties in direct relation with each other as drawer and payee, indorser and indorsee. Remote parties are parties between whom other holders intervene, as drawer and indorsee. Mr. E. and Mr. B. are remote parties.

³ If the maker of the note could show that the indorsee took it *with notice* of its unlawful origin, he could defeat the claims of the indorsee although consideration had been given. In this case the indorsee took care not to know too much.

II

THE BALLAD OF GENERAL OFFERS.

The case is *Carlill v. The Carbolic Smoke Ball Co.*, (1892) 2 Q.B. 434, (1893) 1 Q.B. (C.A.) 269.

The air is '*Miss Myrtle is going to marry,
What a number of hearts she will break.*'

I.

MRS. CARLILL is bringing her action,
And the Company surely must break ;
Yet the jurist may feel satisfaction,
Such a fine leading case it will make.
It's a case that quite bristles with points,
With points that excite and enthrall,
For she's a litigious woman,
And it's a Carbolic Smoke Ball ;
Oh, she's a litigious woman,
And it's a Carbolic Smoke Ball.

The
Proem.

2.

To those who may catch influenza
Is offered a clear hundred pounds,
And minds such as average men's are;
Believed it on adequate grounds ;
For the Company offered to pay,
And the offer was open to all,

The
Offer.

If thrice every day for a fortnight
 You smelt the Carbolic Smoke Ball ;
 If thrice every day for a fortnight
 You have smelt the Carbolic Smoke Ball.

3.

The
 Accep-
 tance.

Mrs. Carlill has sniffed the Carbolic
 Smoke Ball—nasty thing—thrice a day ;
 Fits, neuralgia, the gout and the colic,
 To such pains would be simply child's play.
 And yet, after all's said and done,
 Influenza has held her in thrall ;
 So—here 's the litigious woman,
 And there 's the Carbolic Smoke Ball ;
 So—here 's the litigious woman,
 And there 's the Carbolic Smoke Ball.

4.

The
 Defence.
 (a) *Nu-
 dum pac-
 tum*, or
 absence
 of consid-
 eration.

They say that such *pacta* are *nuda*;
 They say it in face of the facts,
 (Though the lady may not be a prude, ah !
 'Tis shocking to talk of *nude* pacts,)
 For the Company stated their terms.
 Can they say that the detriment's small,
 When thrice every day for a fortnight,
 She has smelt their revolting Smoke Ball ?
 When thrice every day for a fortnight,
 She has smelt their disgusting Smoke Ball ?

5.

They deny 'twas a serious offer;
 They say 'twas a joke or a puff;
 Yet how can the Company proffer
 For defence such incredible stuff?
 For they'd put money by in the bank,
 As they said, to assure honest folk.
 Then don't ask a litigious woman
 To connive at a practical joke;
 No, don't ask a litigious woman
 To smile at a practical joke.

The
 Defence.
 (b) The
 offer was
 not
 seriously
 made.

6.

They say that one ought to give notice
 When one takes the vile dose every day;
 Well, here—and it's easy to quote—is
 The language of Bowen, L.J.
 Such offers you well may accept
 By performance, and then you can call
 For the hundred pound payment that's promised,
 If you're ill when you've smelt the Smoke Ball;
 For the hundred pound payment that's promised,
 If you're ill when you've smelt the Smoke Ball.

The
 Defence.
 (c) Want
 of notice
 of accep-
 tance.

7.

Now these points are sufficient to stump any
 But Trinity jurists, and these
 Will render best thanks to the Company
 For providing such aids to degrees;

L'Envoi.

For such cases stick fast in the mind;
And come swiftly to memory's call.
So—bless the litigious woman,
And bless the Carbolic Smoke Ball;
Aye, bless the litigious woman,
And bless the Carbolic Smoke Ball.

III

THE BALLAD OF AN HONEST BELIEF

Peek v. Derry, 37 Ch. D. 541.

Derry v. Peek, 14 App. Ca. 347.

With apologies to Mr. Rudyard Kipling and to 'Fuzzy Wuzzy'.

I.

I've rummaged up and down the Law Reports,
I've studied volumes short and volumes tall,
And cases, both in contracts and in Torts,
But *Peek v. Derry* fairly beats them all.

Derry certainly was party to a lie,

But he honestly believed it to be true.

That's his statement. We may doubt it, you
and I;

Mr. Justice Stirling takes a different view.

Then here's to you, Peek and Derry, and particularly
Peek,

A tougher, stouter, litigant you might go far to seek;
The Appeal Court's given him judgement, philo-
sophical and broad,

And made a new departure in our views of 'legal
fraud.'

2.

You may take your pigs to market, and may sell,
If you 're silent, typhoid-stricken though they
be ¹ ;

In prospectuses the truth you needn't tell
To a shareholder who 's not an allottee ².
Thomas couldn't out of Horsfall get redress,
For deceit that never managed to deceive ³ ;
But, Derry, you 're peculiar, I should guess—
In what you say you honestly believe.

Then here 's to you, Peek and Derry, and particularly
Derry.

Do I think you are an honest man ? well, no, perhaps
not very.

You 're defeated in the Appeal Court, but you 're
rather bad to beat,

There 's the House of Lords, to give a definition of
Deceit ⁴.

¹ *Ward v. Hobbs*, 3 Q.B.D. 150, 4 App. Ca. 14. Fraud must be a *representation* of fact.

² *Peek v. Gurney*, L. R. 6 H.L. 377. A false statement, to be actionable, must be made to the party injured, or if not made to him directly must be made with knowledge that he will act upon it. If you hold out alluring visions of wealth, in a prospectus which invites applications for an allotment of shares in your bubble company, you are liable to the allottees, but not to those who purchase their shares of them. The fool once removed is a fool without a remedy. Contrast *Langridge v. Levy*, 2 M. & W. 519.

³ 1 H. & C. 90.

⁴ You are liable in damages where you mislead people to their hurt under the following circumstances :—

a. If you make a promise or statement which forms a term

3.

Lords Justices say Equity relieves,
 And damages must injury repair,
 If a falsehood that one utters, and *believes*
 One might penetrate with reasonable care.
 Such an utterance the equitable mind
 Calls 'deceit,' or, more politely, 'legal fraud';
 And the scientific jurist is inclined
 To sympathise and modestly applaud.

Then here's to you jolly jurists, Pollock, Bigelow,
 and Holmes¹,

in a contract, and you cannot make it good. Then you are liable for Breach of Contract.

β. If you make a statement which you know to be false, or if you say that you are certain when you are not. This is practically the same thing, as said the Lord Justice Bowen: 'The state of a man's mind is as much a fact as the state of his digestion.' Then you are liable for Deceit.

γ. If you induce another, however innocently, to believe that a certain state of things exists and he acts on such inducement, you may be forbidden or *estopped* from showing that the facts were not such as you led him to believe; and, if such supposed facts create a right in him against you, you cannot resist the correlative liability.

This is that rule of evidence known as Estoppel.

δ. There are a few cases, under the Companies Act, the Directors' Liability Act, and where a so-called Warranty of Authority is given, where innocent misrepresentation makes you liable in damages.

Beyond this, the duty of care in speech exists only in respect of the liability to an action for defamation of character.

¹ Law Quarterly Review, V. p. 141, 'Definition of Circumvention,' by Melville Bigelow. *Ibid.* p. 410, '*Derry v. Peek* in the House of Lords,' by Sir F. Pollock. Holmes on the Common Law, 135.

What law *was* or what it might be we may gather
 from your tomes ;
 But history and law reform may leave us all abroad,
 When we ask, as Peek and Derry do, what con-
 stitutes a fraud.

4.

The House of Lords sits solemnly severe ;
 Does not leave the issue doubtful for a minute :
 Lord Bramwell is acute, Lord Herschell clear :
 And the scientific jurist isn't in it.
 If knowingly you 're false or inexact
 You must pay to those you injure what is
 meet :
 But if Court or jury find it as a fact
 That you honestly believe—there's no Deceit.
 So here's *to* you, my Lords Justices : my sentiment
 accords
 With you, but reason bids me to support the House
 of Lords ;
 And here's *to* you, Peek and Derry, and here's *to*
 you, Stirling, J.,
 And we've heard the last of legal fraud for ever
 and a day.

IV
THE BALLAD OF COLLATERAL
TRANSACTIONS

*Pearce v. Brooks*¹, L. R. 1 Exch. 213.

I.

THERE 's a case that I think you should know, you
know,
Of a coachbuilder, rather so, so—so, so ;
 And an elegant lady,
 Of character shady,
Who drove in a brougham in the Row, the Row,
 A brougham that she hired for the Row.

2.

He sued for the hire of his brougham, his brougham ;
And she must pay up you assume, assume ;
 But when both are aware
 That things aren't on the square,
Then for brisk litigation there 's room, there 's room,
 For brisk litigation there 's room.

¹ This is not a pretty story, but there is no better illustration of the mode in which a transaction, as innocent, on the face of it, as the hire of a carriage, may be affected by unlawful objects known to both parties. So, reader, recollect the law: and forget the facts, if you will, and the rhymes, if you can.

3.

From that carriage her trade she would ply, would
ply,

And the coachbuilder knew it ; oh, fie ! oh, fie !

Guilty objects bespatter all

Contracts collateral ;

Case goes for defendant, say I, say I,

So say Baron Bramwell and I.

V

THE BALLAD OF THE DISCHARGE
OF CONTRACT BY BREACH

Being an address delivered by Mr. Leslie, in a voice broken by yawns, to a small audience, weary yet athirst for knowledge, on the eve of the Schools.

I.

THERE are rules about breach of contract which try
the legal brain,
Yet I think I can state them clearly if your patience
will stand the strain ;
For I 've got it down in my note-book, in characters
fair and large,
' Every breach is a cause of action, though it may
not be a discharge.'

The difficulty of the subject, and the beauty of Mr. Leslie's note-book.

2.

There are independent promises. If you want a
case, take this 'ere,
And try to grapple with *Ware v. Chappell*, and the
troops engaged for Galicia.
Said Ware, ' Oh, where are your promised ships ? '
said Chappell, ' Where are your men ? '
But the Court said Chappell must do his part and
bring his cross-action then.

Independent promises. *Ware v. Chappell*, Style, 180.

3.

Divisible
promises.
Simpson
v.
Crippin,
L. R. 8
Q.B. 14.

Some promises are divisible. Thus, if you should
make a slip in

A single instalment, it's not a discharge. So *Simpson*
caught *Crippin* trippin'.

Yet these are mainly questions of fact: if instal-
ments are fewer and fuller,

5 H. & N.
19,
7 Q.B.D.
92.

You mayn't omit any; see *Hoare v. Rennie*, or
recently *Honck v. Muller*.

4.

Condi-
tions and
Warran-
ties.
Behn v.
Burness,
3 B. & S.
751.

If you treat a statement as vital, you have only your-
self to thank:

Like *Behn*, who said that his ship was 'now in the
port of Amster——!'

Then a breach discharges the promisee, but the con-
tract's not at an end,

By failure or breach of a minor term, such as damages
well may mend.

5.

How
hard
they are.
Bettini v.
Gye,
1 Q.B.D.
183.

Mark *Gye*'s reversal about the rehearsal, *Bettini*'s
small omission;

And note how fine is the border-line 'twixt Warranty
and Condition.

For the terms are used in a sense confused, and
tempers short grow shorter,

As you learn and teach the law about breach, till
your brain becomes like water.

6.

For law is law, and fact is fact, and never the twain
shall meet

Till the fact is found in the jury box and the law on
the judgement seat ¹.

Yet, when facts are found, have we cleared the
ground? It is hard for me and you

To try to glean what the parties mean from what
they say and do.

And the applica-
tion of
law to
fact.

7.

Now if in the King's Bench I could sit, where
Mansfield sat of old,

And my judgements, and *obiter dicta* too, were
precious and prized as gold;

Or if, as a Baron, or puisne Judge, I determined
points like these,

With Parke in the old Exchequer Court, or Willes
in the Common Pleas ²,

Mr.
Leslie's
judicial
ambition.

¹ Mr. Leslie here states, adapting the lines of a popular poet, what Vaughan, C.J., called the *decantatum*, or old saw, '*ad quaestionem facti non respondeant iudices nec ad quaestionem juris juratores.*' Yet is the old saw not strictly true, for the Chancery always decided mixed questions of law and fact with no jury, and since the Judicature Act cases may be tried without a jury in the Queen's Bench Division.

² Note, reader, Mr. Leslie's reference to the Courts before the Judicature Act, and to the great Judges of former days. But these are gone, as saith the learned poet:

'Now the Courts that were manifold dwindle
To divers divisions of one.'

And this is matter for the student of Constitutional Law.

8.

He
desires
to attain
to prin-
ciple;

Some rules of law I would strive to draw from the
weary maze of fact,
When a man would sue who had aught to do for
his part of the broken pact :
I would ask, ' Has so much been left undone that
the rest isn't worth the doing ? '
Or ' Are you sure it 's a vital term for the breach of
which you are suing ? '

9.

He tries
to attain
to it;

' If so you're discharged, and may also sue for
damage—for breach to wit—
And, if you have paid or rendered aught, on a
quantum meruit.'
If the parties' intention remains obscure, though
closely their words we scan,
I'd recur with zest to that valued test, ' the reason-
able man.'

10.

But finds
that facts
are per-
verse.

Yet rules are vain, for again and again we are drawn
by the stubborn stress
Of facts, to appraise ' the little more ' as against
' the little less.'
And there beats on the brain this weird refrain, like
the wave on the ocean's marge,
' Every breach is a cause of action, but it need not
be a discharge.'

VI

THE BALLAD OF SOVEREIGNS

Mighell v. The Sultan of Johore (1894), L. R. 1 Q.B. 149¹.

I.

LIST ye, damosels unwary,
To Miss Mighell's sad quandary,
And of marriage vows be chary,
 When you learn her hapless fate.
How the gallant Albert Baker
To his home and heart would take her,
Vowed he never would forsake her
 When they'd entered married state.

2.

For he offered, if she'd try it,
Modest lodging, simple diet,
And a trousseau, neat and quiet,
 Nought of gewgaws or of gems.

¹ This ballad records the deceitfulness of princes. The Sultan of Johore sought and won the affections of Miss Mighell, under the false name of Albert Baker, and she accepted his offer to marry her, as the offer of an eligible subject of the Queen. Then he disclosed himself as an independent sovereign, and broke his promise. And the tale tells how she, poor soul, lost lover and lawsuit, and how hard it is to deal with a sovereign prince in a Court of Law.

Said they'd live to heaven knows what age
 Upon lentil soup and pottage,
 In a rose-environed cottage
 On the Solent or the Thames.

3.

So the heavens smiled above her
 Till she happened to discover
 She'd a monarch for her lover,
 Like the beggar maid of yore.
 And to add to her distresses
 She must share his chaste caresses
 With the other Sultaneses
 Of his kingdom of Johore.

4.

But worse was yet to follow,
 For her Albert's vows proved hollow.
 Love's a migrant like the swallow,
 And we know what Sultans are.
 Then although she brought her action
 All that came of that transaction
 Was a modest satisfaction
 To the members of the bar.

5.

What said Esher? what said Kay, L.
 J.? 'A Judith or a Jael
 In the days of old Israël
 Might have made this Sultan pay.

But Sovereigns have immunity¹,
 Break contracts with impunity,
 Nor can ladies' importunity
 Move judges of to-day.'

6.

If you feel a hesitation
 As regards his Sovereign station
 You'll accept the information
 The Colonial Office sends².
 With a Sovereign for defendant,
 Though but quasi-independent³,
 Take the warning of a friend and
 Don't expect to get amends.

¹ Our Courts decline to exercise jurisdiction over the person of a foreign sovereign or representative of a sovereign State though resident in the United Kingdom. The only exception to this rule is in the case of a voluntary submission to the jurisdiction by the sovereign in question. The Sultan did not make such submission by living here as Albert Baker. See the *Parlement Belge*, L. R. 5, P.D. 197.

² A communication made to the Court as to the independence of Johore, written and signed on behalf of the Secretary of State for the Colonies, is to all intents and purposes a message from the Queen, and the Courts inquire no further.

³ The Sultan had, by treaty, surrendered the control of his foreign relations to Her Majesty's Government. But the Queen treats him as a sovereign, and as a sovereign he must therefore be treated.

VII

THE BALLAD OF SUBSEQUENT
IMPOSSIBILITY

Paradine v. Jane (1648), Aleyn, 26.

I.

What the parties said.

JANE refuses his rent to pay.

' I have no kine, nor corn, nor hay ;

Rupert the alien came my way,

Cared not a button

For rights of property. No, the thief

Carried my harvest every sheaf,

Turned *my* oxen into *his* beef,

Sheep into mutton.

' Fields are ravaged and homestead burned,

Out of my lands by the alien turned,

Nought can I pay where nought is earned,

So I go free.'

' No,' said Paradine, ' I'm afraid

I must ask you for rent unpaid :

No conditions in lease were made.

Hear Court's decree.'

2.

What the Court said.

' This is no duty by law created,
 Else had *vis major* the charge abated.
 This is a contract. The terms are stated.

Nought do they say
 Of risks excepted which loss prevent,
 Nor yet of conditions subsequent.
 Such should be mentioned if such were meant ;
 So Jane must pay.'

3.

The rule and its exceptions.

Thus and well do the Courts decide.
 Make conditions lest ill betide,
 Else by your promise you must abide.

Yet I'll remind you,
 Where the thing to be dealt with is destroyed ¹,
 Or Parliament makes your promise void ²,

¹ This is shown by the case of *Taylor v. Caldwell*, 3 B. & S. 826. A contract for the hire of a music-hall for certain days was discharged by the destruction of the hall by fire before the time for performance came.

² This is shown by the case of *Baily v. de Crespigny*, L. R. 4 Q.B. 180, where the defendant agreed that land adjoining a plot which he leased to plaintiff should not be used for any but ornamental purposes during the term of the lease. A railway company took the land, with Parliamentary powers so to do, and built upon it, not ornamentally.

Or illness shatters the skill employed¹,
Contract don't bind you.

With these exceptions, you can't be heard
To say that, from things which have since occurred,
It isn't convenient to keep your word
Unto the letter.

And, with this knowledge, I may opine
That the case of Jane and of Paradine
Will never be either yours or mine;
No! we know better.

¹ If you engage a pianist whose fingers are crippled with rheumatism before the engagement is fulfilled, the contract is discharged. See *Robinson v. Davison*, L. R. 6 Exch. 269.

VIII

THE BALLAD OF THE INFANTS' RELIEF ACT

The case is *Ditcham v. Worrall*, 5 C.P.D. 410.

The Act is 37 & 38 Vict. c. 62.

The air is '*A little peach in an orchard grew—*

Listen to my tale of woe !'

I.

THE maid of the vale was fair to view ;
Hark to the Infant's tale !
And she won the heart of a minor who
Took a leap in the dark, as young men do,
They do, they do—
Advice is of no avail.

Chorus.

Mankind are a faithless crew,
'Tis preached in the pulpit and heard in the pew,
Yet costs and damages may ensue ;
Hark to the Infant's tale !

2.

He loved her and promised marriage too ;
Hark to the Infant's tale !
And the years of his infancy passed through

And he came of age, and he'll always rue,
 He'll rue, he'll rue,
 What he said to the maid of the vale.

3.

'On the fifth of June I'll marry you ;'
 Hark to the Infant's tale !
 That's what he said, but he wasn't true,
 For he cast his vows to the winds that blew,
 That blew, that blew,
 Far over hill and dale.

4.

So he fled without waiting to say ' adieu ' ;
 Hark to the Infant's tale !
 But the lady hardened her heart to sue,
 For feelings injured and damages due,
 Yes due, yes due,
 On a quite substantial scale.

5.

From an infant's promise can rights accrue ?
 Hark to the Infant's tale !
 For he can't ratify and he didn't renew,
 And the Court must read the Act askew,
 Askew, askew,
 Or the lady will surely fail.

6.

Then the Court said 'Pshaw!' and the Court said
 'Pooh!'

Hark to the Infant's tale!

'To name the day makes a promise new,
 Outside of the Statute, section two,

§ 2, § 2,

And the lady must prevail.'

7.

Now his fate on himself this young man drew;

Hark to the Infant's tale!

For he grew not wise as in years he grew,
 And he gave to his promise this novel hue,

This hue, this hue,

As he needs must now bewail.

8.

Then, infants all, or perhaps a few;

For I speak to infants male,

Your young affections you must subdue;

Or perchance you may love a litigious shrew,

A shrew, a shrew.

Like the Infant of my tale¹.

¹ The following verse, though accepted by some, is undoubtedly spurious. Like the apocryphal writings, it may be accepted as

Chorus.

Rash vows you should all eschew,
 But stick to a promise, when made, like glue,
 And don't trust blindly to section two,
 But hark to the Infant's tale!

an 'example of life and instruction of manners,' but not as an authoritative exposition of law and fact.

Now all this story is perfectly true,
 This tale of an infant's woe;
 Not like the story of John and Sue,
 Which perhaps Mr. Ellis will sing to you
 (If you ask him nicely and say 'Ah, do,
 Yes do, pray do')
 In a silver voice and low.

IX

THE BALLAD OF THE TRINITY LAWYER

With acknowledgements to Mr. Rudyard Kipling and the '*Young British Soldier*.'

I.

WHEN the Trinity man's introduced to the law,
His English is crude and his intellect raw,
And he answers by rote, like a jay or macaw,
 But not like a Trinity lawyer ;
Not, not, not like a lawyer.
 A lawyer trained in All Souls¹.

2.

But when for a while he's been at it, he sees
That by *thinking* his knowledge is mastered with ease,
And he smiles at the men who take other degrees,
 Smiles like a Trinity lawyer . . .

3.

And shortly some useful results come to hand :
You cease to mask folly with periods grand,
Or talk big about things that you don't understand,
 But you talk like a Trinity lawyer . . .

¹ Trinity men are instructed in Law, so runs the University Calendar, by 'members of the Faculty of Law in All Souls College.' It were to be wished that they were always sufficiently sensible of this high privilege.

4.

To an essay you strive some attraction to lend,
 You arrange your ideas and your sentences mend,
 Till it has a beginning, a middle, an end,
 Clear, neat, and becoming a lawyer . . .

5.

Take a case, first you master the dry facts, and thence
 You extract cause of action and ground of defence,
 And you go for the point without talk or pretence,
 And state the results like a lawyer . . .

6.

When set down in the Schools with three hours to
 spare,
 At a table in front of your cane-bottomed chair,
 Play up, and sit tight, for the battle is *there* ;
 So work like a man, and a lawyer . . .

7.

And don't be down-hearted, and wish you were dead,
 Or think you've forgotten whatever you've read:
 What's the good of your notes if they're not in
 your head?
 Keep cool, and you'll write like a lawyer . . .

8.

When you're placed in the class-list, don't make it
 a rule
 To disparage your work, and belittle your School,
 And say you read nothing—you weren't such a fool:
 But you read like a sensible lawyer . . .

9.

And when the Schools' papers are gone to the flames,
 And Ellis, and Leslie, and Havers, and James,
 Are nothing but photographs—memories—names ;
 Passed out of sight like the lawyers,
 Gone, gone, gone like the lawyers,
 Lawyers trained in All Souls.

10.

Well, it's dull for the bird when the nestlings are
 flown ;
 As the stream ripples onward it's dull for the stone ;
 And it's dull to be left to your studies, alone ;
 Left by the Trinity lawyers,
 Left, left, left by the lawyers,
 Lawyers trained in All Souls.

11.

Then, you Trinity lawyers, hearts kindly and true,
 May each Michaelmas term bring such others as you ;
 So, good-bye to the old friends, and welcome the
 new.
 'Tis the fate of the resident lawyers,
 Fate, fate, fate of the lawyers,
 Lawyers that live in All Souls.

POEMS
FROM THE
OXFORD MAGAZINE

A WARNING

Addressed to the Editor of the Magazine at a time when social and educational topics were dealt with on a scale of some magnitude, and in a style of uniform sobriety.

MR. EDITOR, surely some lightness of touch
Would be not unbecoming your famed Magazine :
Of lectures and sermons you give us too much ;
Toynbee Hall gets to pall, and I loathe Bethnal
Green.

When I get my testamur, if ever I do,
And when I'm a B.A., if ever I am,
I intend, Sir, to edit a rival review,
Full of learning put lightly, like powder in jam.

My contributors almost o'erwhelm me, I own ;
The Vice-Chancellor smiles on my gallant attempt ;
The Proctors send stories of ' men they have known ',
And the Psychicists legends of things they have
dreamt.

A gay sermonette full of banter and scoff
Comes from Chichester's Dean¹, very racy and
tart ;

Mr. Page sends a leaflet on ' Pulls from the off ' ;
Miss Broughton a novel, ' A Head and his Heart.'

¹ Dean Burgon.

I have stories of Sandford and memories of Merton :
 I've a new comic song—title, ' Got him on toast ' ;
 I've a cryptogram, making it morally certain
 That what we call Gaius was written by Poste.

Mr. Raper has promised a curious note
 On the lost compositions of writers unknown ;
 And the Boden Professor a tale he once wrote,
 ' How I shot the stuffed buffalo sitting, alone ! '

There are fine Jingo projects, and Socialist dreams ;
 There are Whig economics supplied me in shoals,
 And the Russell Club send me some excellent
 schemes
 For allotments laid out in the Quad of All Souls.

Then the Canning and Palmerston furnish reports
 Of the speeches their members are hoping to
 make :
 Norham Gardens, familiar with fashion and courts,
 Sends society gossip that's certain to take.

Such a concourse of talent makes rivalry vain :
 Though my warning is friendly, I mean what I've
 said.
 Ere we meet, Sir, as foes, let me once more remain
 Your respectful, admiring, but firm

X. Y. Z.

A REPLY

[In order to give full point to the 'Reply' the original letter of invitation from Mr. Algernon Dexter is reproduced at length in the Appendix, by the kind permission of Q (Sir Arthur Quiller-Couch). The letter first appeared in the *Oxford Magazine* and has been reprinted in *Echoes from the Oxford Magazine* (Oxford University Press) and in *Green Bays* (Methuen & Co.).]

From MISS KITTY TREMAYNE to MR. ALGERNON DEXTER, declining his invitation to the Encaenia of June 1888, on the ground that she proposes to attend the University Extension Summer Meeting in the Long Vacation of the same year.

DEAR ALGY,

How could you suppose that
I care for your silly Commem.
Every Home Reading Circle well knows that
Such gaieties are not for them.
I am bent upon probing life's mystery,
And I write seven essays a week,
I read pure mathematics and history,
And high metaphysics and Greek.
I care not for balls and flirtations,
I am dull 'mid frivolity's throng,
But I pine for quadratic equations
In the studious repose of the Long.

I really don't know what you'll say to
The remarkable progress I've made :
Like you I can prattle of Plato,
Like you I can pilfer from Praed.

I have come to believe in the mission
 Of woman to civilise man ;
 To teach him to know his position,
 And to estimate hers—if he can.
 Perhaps you would rather I'd greet you
 With snatches of music-hall song :
 Ah, I fear I'm not likely to meet you
 In those serious hours of the Long.

You once said I danced like a fairy,
 Yet are dances but circles and squares,
 And ' quadrata rotundis mutare '—
 (It is Horace, dear Algy)—who cares ?
 Oh, if squaring the circle were possible !
 How I'd work to that end night and day.
 Still, the Infinite *may* be cognoscible,
 And 'tis rapture to think that it may.
 These, these are the thoughts that come o'er one ;
 These high aspirations belong—
 Not to luncheons and concerts that bore one,
 But—to serious life in the Long.

From lecture to lecture instructive
 I shall hurry with note-book and pen,
 Mr. Harrison, preacher seductive,
 Will discourse upon eminent men ;
 Dr. Murray will tell how his Dictionary
 May inform generations to come ;
 And a Bishop will talk about Fiction, ere I
 Return to my parish and home.

Yes, learning would cease to be labour,
 Though I studied the tongue of Hong Kong,
 With a Dean or a Tutor for neighbour
 In my still College rooms in the Long.

I can gaze at the stars from your towers,
 Till the summer nights pale into dawns ;
 I can wander with Readers in bowers,
 I can walk with Professors on lawns.
 And oh, if from skies unpropitious
 Gentle rain in soft drizzle should fall,
 There are chances of converse delicious,
Tête-à-tête in the Cloister or Hall.
 There's a feeling one has towards one's teacher—
 Dear Algy, don't say that it's wrong—
 This communion of souls is a feature
 Of our shy student life in the Long.

You won't come. You'll be thinking of cricket;
 Or perhaps of lawn-tennis or sport,
 You'll be studying the state of a wicket
 Or measuring the length of a court.
 You'll be watching the stream and the weather,
 With your heart in your flies and your hooks ;
 You will tramp after grouse o'er the heather,
 While at Oxford I toil o'er my books.
 So adieu : I've an essay just set me,
 And 'tis dinner time—there goes the gong ;
 And—dear Algy, you won't quite forget me,
 When I'm reading so hard in the Long ?

MR. ALGERNON DEXTER *appears to have been so much annoyed by the receipt of this letter as to forget alike his scholarship and his Praed, and to respond in the fresh and nervous vernacular of the Undergraduate of the period.*

DEAR KITTY,

 You used to be jolly,
 And I'd stand a good deal for your sake,
But, Great Scott! of all possible folly
 This last folly of yours takes the cake.
Why, you'd come up a mere carpet-bagger,
 And though Bishops and Dons boss the show,
And you think that it's awfully swagger,
 You would find that it's awfully slow.
Your friends say you're trying to rile 'em,
 And your enemies snigger and grin;
If they run you for Earlswood Asylum,
 By Jingo! you'd simply romp in.
You were always a bit of a dreamer,
 But you're coming it rather too strong,
And I'll write you a regular screamer
 If you dare to come up in the Long.

OUR MASTERS: AN ECLOGUE

The endowment of Research is an old story ; the endowment of the Extension Lectures is a modern demand and backed by a louder outcry. The resources of the University are insufficient for the needs of liberal studies ; but this is no answer, as is shown in the following dialogue, to the rapacity of the specialist and the sciolist.

RESEARCHER.

I AM not such as others are ;
My worth is hard to rate,
And you must please to take at par
My modest estimate.
For how can you examine those
Who only know what none else knows ?
Or—if you choose to put it so—
What no one else would care to know ?

EXTENSION STUDENT.

I 'm very much as others are,
Perhaps a little more so.
I don't pursue my studies far,
For then I find they bore so.
By each successive teacher shown
Glimpses half-seen of things half-known ;
I represent, throughout the land,
The second-rate at second-hand.

RESEARCHER.

My learning's tree bears scanty fruits,
 For I'm a true Researcher ;
 I find in Letto-Slavic roots
 My intellectual nurture.
 Of these I know, and I alone,
 The little that can e'er be known ;
 Content therewith I stand apart
 From science, literature, and art.

EXTENSION STUDENT.

I pass all knowledge in review,
 The subjects don't much matter ;
 I pick up quite enough to do
 For dinner-table chatter.
 A note-book, large and full, contains
 My substitutes for work and brains :
 And I believe with all my soul
 ' The half is greater than the whole.'

ENSEMBLE.

In this at least we both concur,
 We somehow must be paid for ;
 Curators of the Chest demur,
 But *we* are what they're made for.
 Of Letters once esteemed Humane,
 The day has sunk, nor dawns again—
 Quick then—endow us, for you must,
 Extensionist and Dryasdust.

NONSENSE VERSES

After SWINBURNE, *Poems and Ballads*, i. 116.

IF I were what the year is
 And you the Summer Term ;
Involved and yet unmated
We might be correlated
As pewter unto beer is
 Or thrush to early worm :
If I were what the year is
 And you the Summer Term.

If you were classic poet,
 And I the humble crib,
Apart—you'd be neglected,
And I—not much respected ;
Plato without his Jowett,
 A pen without a nib :
If you were classic poet,
And I the humble crib.

If you were a papyrus,
 And I a palimpsest,
We'd lurk, assorted oddly,
In nooks and holes of Bodley,

Where trippers can't admire us
 And students daren't molest :
 If you were a papyrus,
 And I a palimpsest.

If you were the Vice-Chancellor,
 And I the poker bore ;
 We'd wend our walks diurnal,
 Half formal, half fraternal,
 Like Gretel and like Hansel, or
 The Heavenly Twins of yore :
 If you were the Vice-Chancellor,
 And I the poker bore.

If you re-wrote the Digest,
 And I revised the Code,
 We'd frolic with opinions
 That never were Justinian's,
 And dance, with quip and high jest,
 Down learning's royal road :
 If you re-wrote the Digest,
 And I revised the Code.

If I could be the whisky,
 And you the soda were,
 'Mid shouts and glasses' jingle
 We'd sparkle, mix and mingle,
 With Undergraduates frisky,
 Nor here—nor quite all there :
 If I could be the whisky,
 And you the soda were.

If you, love, were the bonfire,
And I the College chairs,
In fire we'd seek sensation
Of mutual, glad cremation,
Fire, that seems sunk and gone—fire
That faintlier—flickering—flares :
If you, love, were the bonfire,
And I the College chairs.

APPENDIX ¹

A LETTER

*Addressed during the Summer Term of 1888 by MR. ALGERNON
DEXTER, Scholar of — College, Oxford, to his cousin, MISS
KITTY TREMAYNE, at — Vicarage, Devonshire.*

DEAR KITTY,

*At length the Term's ending ;
I'm in for my Schools in a week ;
And the time that at present I'm spending
On you should be spent upon Greek :
But I'm fairly well read in my Plato,
I'm thoroughly red in the eyes,
And I've almost forgotten the way to
Be healthy and wealthy and wise.
So ' the best of all ways '—why repeat you
The verse at 2.30 a.m.,
When I'm stealing an hour to entreat you,
Dear Kitty, to come to Commem. ?*

*Oh come ! You shall rustle in satin
Through halls where Examiners trod :
Your laughter shall triumph o'er Latin
In lecture-room, garden and quad.*

¹ See p. 45.

*They stand in the silent Sheldonian—
 Our orators, waiting—for you,
 Their style guaranteed Ciceronian,
 Their subject—' the Ladies in Blue ' :
 The Vice sits arrayed in his scarlet ;
 He's pale, but they say, he dissem-
 -bles by calling his Beadle a ' varlet '
 Whenever he thinks of Commem.*

*There are dances, flirtations at Nuneham,
 Flower-shows, the procession of Eights :
 There's a list stretching usque ad Lunam
 Of concerts and lunches and fêtes :
 There's the Newdigate, all about ' Gordon ',
 —So sweet, and they say it will scan.
 You shall flirt with a Proctor, a Warden
 Shall run for your shawl and your fan.
 They are sportive as gods broken loose from
 Olympus, and yet very em-
 -inent men. There are plenty to choose from,
 You'll find, if you come to Commem.*

*I know your excuses : Red Sorrel
 Has stumbled and broken her knees ;
 Aunt Phœbe thinks waltzing immoral ;
 And ' Algy, you are such a tease ;
 It's nonsense, of course, but she is strict ' ;
 And little Dick Hodge has the croup ;
 And there's no one to visit your ' district '
 Or make Mother Tettleby's soup.*

*Let them cease for a se'nnight to plague you ;
 Oh leave them to manage pro tem.
 With their croups and their soups and their ague,
 Dear Kitty, and come to Commem.*

*Don't tell me Papa has lumbago,
 That you haven't a frock fit to wear,
 That the curate ' has notions, and may go
 To lengths if there's nobody there,'
 That the Squire has ' said things ' to the Vicar,
 And the Vicar ' had words ' with the Squire,
 That the Organist's taken to liquor,
 And leaves you to manage the choir :
 For Papa must be cured, and the curate
 Coerced, and your gown is a gem ;
 And the moral is—Don't be obdurate,
 Dear Kitty, but come to Commem.*

*' My gown ? Though, no doubt, sir, you're clever,
 You'd better leave such things alone.
 Do you think that a frock lasts for ever ?'
 Dear Kitty, I'll grant you have grown ;
 But I thought of my ' scene ' with McVittie
 That night when he trod on your train
 At the Bachelor's Ball. ' 'Twas a pity,'
 You said, but I knew 'twas Champagne.
 And your gown was enough to compel me
 To fall down and worship its hem—
 (Are ' hems ' wearing ? If not, you shall tell me
 What is, when you come to Commem.)*

Have you thought, since that night, of the Grotto ?

*Of the words whispered under the palms,
While the minutes flew by and forgot to
Remind us of Aunt and her qualms ?*

Of the strains of the old Journalisten ?

*Of the rose that I begged from your hair ?
When you turned, and I saw something glisten—*

*Dear Kitty, don't frown ; it was there !
But that idiot Delane in the middle*

*Bounced in with ' Our dance, I—ahem ! '
And—the rose you may find in my Liddell
And Scott when you come to Commem.*

Then, Kitty, let ' yes ' be the answer.

*We'll dance at the 'Varsity Ball,
And the morning shall find you a dancer
In Christ Church or Trinity hall.*

*And perhaps, when the elders are yawning,
And rafters grow pale overhead*

*With the day, there shall come with its dawning
Some thought of that sentence unsaid.*

Be it this, be it that—' I forget,' or

*' Was joking '—whatever the fem-
-inine fib, you'll have made me your debtor
And come,—you will come ?—to Commem.*





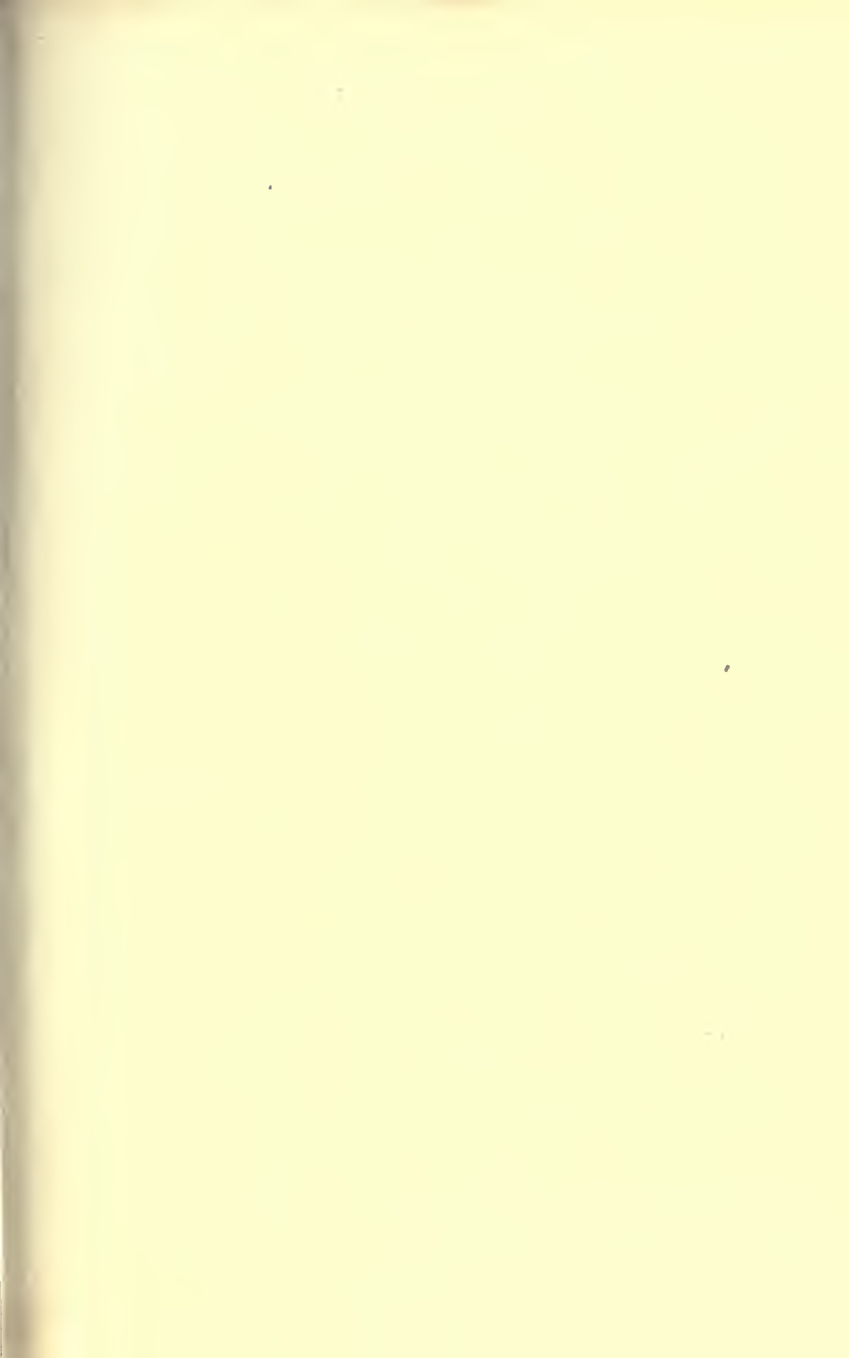






















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